

**Letters of Findings Number: 02-20130106; 02-20130107**  
**Corporate Income Tax-Penalty**  
**For the Years Ending March 31, 2009, 2010, and 2011**

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**ISSUE**

**I. Corporate Income Tax—Property Factor.**

**Authority:** IC § 6-3-2-2; IC § 6-8.1-5-1; [45 IAC 3.1-1-44](#).

Taxpayer protests the adjustments made to its property value for apportionment purposes.

**STATEMENT OF FACTS**

Taxpayer is a C corporation operating in Indiana. The Indiana Department of Revenue ("Department") audited Taxpayer and determined that Taxpayer did not report the proper amount in the denominator of its property factor. The resulting adjustment resulted in a proposed assessment of additional Indiana corporate income tax. Taxpayer protested the assessment, the Department conducted an administrative hearing, and this Letter of Findings results.

**I. Corporate Income Tax—Property Factor.**

**DISCUSSION**

Taxpayer protests the imposition of corporate income tax. In particular, Taxpayer protests that the Department adjusted the denominator of its property factor. Taxpayer's contentions are that the Department's adjustments were improper and, in the alternative, that any adjustment to the denominator of its property factor required a similar adjustment to the numerator.

The burden of proving a proposed assessment incorrect—including a penalty assessment—rests with the taxpayer, as provided under IC § 6-8.1-5-1(c).

IC § 6-3-2-2(c) provides:

The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

The Department's audit adjusted Taxpayer's receipts denominator to reflect its reported property on Taxpayer's federal corporate income tax returns. Taxpayer asserts that it properly reported its overall property on its Indiana corporate income tax return.

**A. Inventory**

First, the Department adjusted the value of Taxpayer's reported inventory. Taxpayer's breakdown of the difference in inventory consisted of three items—a "LIFO" adjustment to reflect that it used a last in, first out method of inventory valuation, an "obsolescence adjustment," and a "return adjustment." With regard to the various adjustments, any adjustments to property values for depreciation or obsolescence are not considered. [45 IAC 3.1-1-44](#). Taxpayer's purchase price of the property generally is the value used for valuation purposes.

Taxpayer has not established the value of the inventory reported by Taxpayer is in fact Taxpayer's purchase price of the inventory. Nevertheless, Taxpayer has provided sufficient information to permit further review to determine the proper value of the inventory in question.

**B. Rented Property**

Taxpayer also protested the valuation of property that it rents. In particular, Taxpayer listed the amount listed on line sixteen of its federal corporate income tax return as its rental rate. Then, Taxpayer added a smaller amount which reflected its rental of automobiles and equipment and which—according to Taxpayer—was not reflected on the relevant line of the federal return.

Taxpayer has not established that the value of the property listed on its return was improper. Nevertheless, Taxpayer has provided sufficient information to permit further review to determine the proper amount of rents paid

and—by extension—its rented property.

**C. Adjustments to Indiana Factors**

Finally, Taxpayer protests that the Department's auditor adjusted only Taxpayer's property denominator as opposed to both Taxpayer's property numerator and denominator. With regard to this issue, Taxpayer has not established the exact changes that should be made to its property numerator. Nevertheless, Taxpayer has provided sufficient information to conclude that the receipts numerator is potentially subject to adjustments. Taxpayer is sustained on this issue subject to audit review of the exact adjustments required to be made.

**FINDING**

Taxpayer's protest is sustained subject to audit review.

*Posted: 07/31/2013 by Legislative Services Agency*

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